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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LOUIS OLIVEREZ, JR.,

Plaintiff,

v.

BEN ALBITRE, et al.,

Defendants.

CASE NO. 1:09-cv-00352-LJO-SKO PC

ORDER PERMITTING PLAINTIFF
OPPORTUNITY TO WITHDRAW
OPPOSITION AND FILE AMENDED
OPPOSITION IN LIGHT OF SEPARATELY-
ISSUED SUMMARY JUDGMENT NOTICE

(Doc. 43)

THIRTY-DAY DEADLINE

Plaintiff Louis Oliverez, Jr. is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendants Albitre and Adams for violation of the Free Exercise Clause of the First Amendment.

On December 8, 2011, Defendants filed a motion for summary judgment and on January 18, 2012, Defendants filed a supplement identifying two additional district court cases in support of their motion. Plaintiff filed an opposition on February 3, 2012, Defendants filed a reply on February 10, 2012, and the motion was submitted under Local Rule 230(1).

However, in light of the recent decision in Woods v. Carey, Nos. 09-15548, 09-16113, 2012 WL 2626912, at *5 (9th Cir. Jul. 6, 2012), Plaintiff must be provided with “fair notice” of the requirements for opposing a motion for summary judgment at the time the motion is brought and the notice given in this case some two years prior does not suffice. In bringing their motion, Defendants notified Plaintiff of the cases in which he would find the law governing his obligations but that, too, does not suffice. Id.

1 By separate order issued concurrently with this order, the Court provided the requisite notice.
2 The Court will not consider multiple oppositions, however, and Plaintiff has two options upon
3 receipt of the notice and this order. Plaintiff may either (1) stand on his previously-filed opposition
4 or (2) withdraw it and file an amended opposition.¹

5 Accordingly, it is HEREBY ORDERED that:

- 6 1. Plaintiff may, within **thirty (30) days** from the date of service of this order, withdraw
7 his opposition and file an amended opposition;
- 8 2. If Plaintiff does not file an amended opposition in response to this order, his existing
9 opposition will be considered in resolving Defendants’ motion for summary
10 judgment; and
- 11 3. If Plaintiff elects to file an amended opposition, Defendants’ existing reply will not
12 be considered and they may file an amended reply pursuant to Local Rule 230(1).

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16 IT IS SO ORDERED.

17 **Dated: July 11, 2012**

18 /s/ Sheila K. Oberto
19 UNITED STATES MAGISTRATE JUDGE

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28 ¹ The Court notes the comprehensive nature of Plaintiff’s existing opposition, but its adequacy is apparently irrelevant. Plaintiff is entitled to an opportunity to file an amended opposition following “fair notice” to him of the requirements for opposing a summary judgment motion. Woods, 2012 WL 2626912, at *5.